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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,961

12/08/2003

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05/16/2007

EXAMINER

RICHMAN, GLENN E

ART UNIT

PAPER NUMBER

3764

MAIL DATE

DELIVERY MODE

05/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/728,961

Applicant(s)

HUFFMAN, LARRY D.

Examiner

Glenn Richman

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-9, 11-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Resk.

Resk discloses first and second spaced parallel bars (16,18); a cylinder having first and second ends; the first end of the cylinder connected centrally on the first bar (37); a ram having a piston mounted in the cylinder and having a piston rod connected at a first end to the piston (fig. 2), the piston rod extending through the second end of the cylinder and having a second end connected centrally on the second bar (fig. 2), resistance provided between the piston and the first and second ends of the cylinder for resisting movement of the piston and piston rod with respect to the cylinder (col. 1, lines 5-11); a grip provided on one of the bars for gripping the one bar with one or two hands of a user (16); and positions provided on another one of the bars for holding the other bar with one or both hands or with body members (18).

Resk further discloses a fluid in the cylinder on opposite sides of the piston, and wherein the resistance comprises resistance to flow of fluid between opposite sides of the piston as the piston is moved through the cylinder (abstract), fluid in the cylinder on opposite sides of the piston (abstract), and wherein the resistance comprises resistance

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to flow of fluid between opposite sides of the piston as the piston is moved through the cylinder (abstract), the resistance is adjustable by varying flow rate of the fluid between the opposite sides of the piston (col. 3, lines 54-60), the resistance is variable in response to varying force between the bars for extending the piston rod from the cylinder and moving the piston rod into the cylinder (col. 3, lines 54-60), the resistance is variable in response to varying speed between the bars for extending the piston rod from the cylinder and moving the piston rod into the cylinder (col. 3, lines 54-60), the fluid is air and the cylinder is a pneumatic cylinder (abstract), a flow passage between sides of the piston and a restrictor on the passage for restricting flow (abstract), the restrictor is adjustable (abstract).

The method claims 11-20 are inherent in the corresponding apparatus claims and are rejected for the reasons above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Resk.

Resk discloses it is old in the art to use oil as the fluid in a hydraulic cylinder (col. 1, lines 35-27)

It would therefore be obvious to use oil, to provide the resistance.

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As to the applicant's arguments:

a. Resk has neither resistance provided between the piston and the first and second ends of the cylinder for resisting movement of the piston and piston rod with respect to the cylinder.

b. Resk does not have a grip provided on one of the bars for gripping the one bar with one or two hands of a user; and positions provided on another one of the bars for holding the other bar with one or both hands or with body members of claim 1.

As to a. above Resk discloses an air pressure resistance in between the handles. Inherently, and to the extent claimed, this reads on a resistance provided between the piston and the first and second ends of the cylinder.

As to b. above, Resk discloses a grip 16 provided on one of the bars and positions provided on another one of the bars for holding the other bar with one or both hands or with body members 18.

c. Resk has no fluid in the cylinder on opposite sides of the piston, and wherein the resistance comprises resistance to flow of fluid between opposite sides of the piston as the piston is moved through the cylinder.

As to c. above, the air in Resk's chambers on the opposite sides of the piston is considered a fluid, which is providing the resistance, as any substance that flows is considered a fluid (and as claimed by the applicant).

d. Resk does not have the resistance is adjustable by varying flow rate of the fluid between the opposite sides of the piston.

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As to d. above, Resk discloses adjusting the air flow rate, thereby adjusting the resistance.

e. Resk does not have the resistance is variable in response to varying force between the bars for extending the piston rod from the cylinder and moving the piston rod into the cylinder.

As to e. above, Resk discloses adjusting the pressure between the bars, which inherently will vary the force between the bars.

f. Resk does not have a flow passage between sides of the piston and a restrictor on the passage for restricting flow and does not have the restrictor is adjustable.

As to f. above, Resk discloses a flow passage between the sides of the piston see fig. 2, and to the extent Resk's valve pin reads on the restrictor. The valve pin being adjustable by introducing and removing air from the cylinder.

g. Resk does not have moving hydraulic or pneumatic fluid from one end to the other end of the cylinder with the relative movement of the handles and of the ram and the cylinder.

As to g. above, it is inherent that when Resk's piston is moved into the cylinder, the fluid will move relative to the handles from one end to the other.

h. Resk does not have a first bar placed through a first ring on a closed end of the cylinder, and gripping a second pair of handles on opposite ends of a second bar placed through a second ring on an outer end of the ram.

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As to h. above, Resk discloses a first bar placed through a first ring on a closed end of the cylinder, and gripping a second pair of handles on opposite ends of a second bar placed through a second ring on an outer end of the ram (see fig. 2).

As for the arguments regarding the various exercises of the claims, they are inherent use for the type of exercise device of Resk.

Claim 10 is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Glenn Richman
Primary Examiner
Art Unit 3764